



Department of Justice

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FLORIDA PHYSICIANS AGREE TO STOP ILLEGAL JOINT NEGOTIATIONS IN RESPONSE TO JUSTICE DEPARTMENT LAWSUIT

WASHINGTON, D.C. – A group of general and vascular surgeons in Tampa, Florida today agreed not to engage in illegal joint contract negotiations or boycotts in order to force certain health plans to accept increased fees, under a settlement reached with the Department of Justice.

The complaint, filed today with the settlement in U.S. District Court in Tampa, charges the Federation of Certified Surgeons and Specialists Inc (FCSSI), a corporation formed and controlled by 29 competing general and vascular surgeons, and Pershing Yoakley and Associates, P.C. (PYA), an accounting and consulting firm based in Knoxville, Tennessee, with conducting these illegal activities. The settlement, if approved by the court, would resolve the suit.

FCSSI was formed by its member physicians to obtain higher fees for their services from managed care plans. The doctors constituting FCSSI make up the vast majority of the general and vascular surgeons with operating privileges at five Tampa hospitals. In 1996, FCSSI surgeons performed 87 percent of the general and vascular surgeries at the hospitals.

“Today’s action demonstrates our resolve to stop illegal joint negotiating and boycotts by physicians,” said Joel I. Klein, Assistant Attorney General in charge of the Department’s Antitrust Division. “We will take action to stop illegal boycotts that ultimately increase the prices consumers pay for health care.”

The Department said that each FCSSI surgeon gained \$14,097 on average, in projected annual revenues as a result of the illegal joint efforts.

Today’s complaint alleges that PYA approached health plans on behalf of FCSSI to negotiate higher fees. It also alleges that PYA informed the health plans that the surgeons would terminate their contracts and refuse to participate in the plan’s network unless it contracted with all FCSSI surgeons under the terms proposed by PYA. In at least one instance, PYA succeeded in obtaining higher fees for FCSSI surgeons after 28 of them had terminated their contracts with the health plan.

The complaint further asserts that FCSSI and PYA representatives attempted to cloak their illegal activities as those of a legitimate “third-party messenger.” A messenger arrangement, when implemented with adequate safeguards, may streamline the transmission of information between health plans and doctors and may ultimately benefit customers. Under the law, however, a messenger may not bolster the bargaining power of those it serves. The complaint claims that FCSSI and PYA did not function as a legitimate third-party messenger.

In a separate case in August 1998, the Justice Department charged the negotiating agent for nearly all of the orthopedic surgeons in Delaware with orchestrating similar joint negotiations and boycott activities.

The proposed consent decree will be published by the Federal Register, along with the Department’s competitive impact statement, as required by the Antitrust Procedures and

Penalties Act. Any person may submit written comments concerning the proposed consent decree within 60 days of its publication to Gail Kursh, Chief, Health Care Task Force, Antitrust Division, U.S. Department of Justice, 325 7th Street, N.W., Room 400, Washington, D.C. 20530.

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